

which provides for the fixing of and adherence to uniform maritime terminal rates, charges, practices and conditions of service relating to the receipt, handling, and/or delivery of passengers or cargo for all members.

(c) *Marine terminal discussion agreement* means an agreement between or among two or more marine terminal operators and/or marine terminal conferences and/or ocean common carriers solely for the discussion of subjects including marine terminal rates, charges, practices and conditions of service relating to the receipt, handling and/or delivery of passengers or cargo.

(d) *Marine terminal interconference agreement* means an agreement between or among two or more marine terminal conference and/or marine terminal discussion agreements.

(e) All marine terminal agreements, as defined in § 535.307(a), with the exception of marine terminal conference, marine terminal interconference and marine terminal discussion agreements as defined in § 535.307 (b), (c) and (d) are exempt from the waiting period requirements of section 6 of the Shipping Act of 1984 and part 535 of this chapter on the condition that they be filed in the form and manner presently required by part 535 of this chapter.

(f) Agreements filed for and entitled to exemption under this paragraph will be exempted from the waiting period requirements effective on the date of their filing with the Commission.

(g) The filing fee for such agreements is described in § 535.401(f).

[52 FR 18697, May 19, 1987, as amended at 59 FR 63908, Dec. 12, 1994; 64 FR 11242, Mar. 8, 1999]

§ 535.308 Agreements between or among wholly-owned subsidiaries and/or their parent—exemption.

(a) An agreement between or among wholly-owned subsidiaries and/or their parent means an agreement under section 4 of the 1984 Act between or among an ocean common carrier or marine terminal operator subject to the 1984 Act and any one or more ocean common carriers or marine terminal operators which are ultimately owned 100 percent by that ocean common carrier or marine terminal operator, or an agreement between or among such

wholly-owned carriers or terminal operators.

(b) All agreements between or among wholly-owned subsidiaries and/or their parent are exempt from the filing requirements of the 1984 Act and of this part.

(c) Common carriers are exempt from section 10(c) of the 1984 Act to the extent that the concerted activities proscribed by that section result solely from agreements between or among wholly-owned subsidiaries and/or their parent.

(d) All agreements between or among wholly-owned subsidiaries and/or their parent are exempt from the requirements of § 535.301(f) of this part.

(e) The filing fee for such agreements is described in § 535.401(f).

[53 FR 11073, Apr. 5, 1988, as amended at 59 FR 63908, Dec. 12, 1994; 61 FR 11574, Mar. 21, 1996]

§ 535.309 Miscellaneous modifications to agreements—exemptions.

(a) Each of the following types of modifications to agreements is exempt from the notice and waiting period requirements of the Act and of this part provided that such modifications are filed for informational purposes in the proper format:

(1) Any modification which cancels an effective agreement.

(2) Any modification to the following:

(i) Parties to the agreement (limited to conference agreements, voluntary ratemaking agreements having no other anticompetitive authority (e.g., pooling authority or capacity reduction authority), and discussion agreements among passenger vessel operating common carriers which are open to all ocean common carriers operating passenger vessels of a class defined in the agreements and which do not contain ratemaking, pooling, joint service, sailing or space chartering authority).

(ii) Officials of the agreement and delegations of authority.

(iii) Neutral body policing (limited to the description of neutral body authority and procedures related thereto).

(b) Any modification exempt under paragraph (a) is effective upon filing.

§ 535.310

(c) The filing fee for such agreements is described in § 535.401(f).

[50 FR 16703, Apr. 29, 1985. Redesignated at 52 FR 18697, May 19, 1987 and 53 FR 11073, Apr. 5, 1988; 59 FR 63908, Dec. 12, 1994; 61 FR 11574, Mar. 21, 1996; 64 FR 11242, Mar. 8, 1999]

§ 535.310 Marine terminal services agreements—exemption.

(a) *Marine terminal services agreement* means an agreement, contract, understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) between a marine terminal operator and an ocean common carrier that applies to marine terminal services, including checking; dockage; free time; handling; heavy lift; loading and unloading; terminal storage; usage; wharfage; and wharf demurrage and including any marine terminal facilities which may be provided incidentally to such marine terminal services) that are provided to and paid for by an ocean common carrier. The term “marine terminal services agreement” does not include any agreement which conveys to the involved carrier any rights to operate any marine terminal facility by means of a lease, license, permit, assignment, land rental, or similar other arrangement for the use of marine terminal facilities or property.

(b) All marine terminal services agreements as defined in § 535.310(a) are exempt from the filing and waiting period requirements of sections 5 and 6 of the Shipping Act of 1984 and Part 535 of this chapter on condition that:

(1) They do not include rates, charges, rules and regulations which are determined through a marine terminal conference agreement, as defined in 46 CFR 535.307(b); and

(2) No antitrust immunity is conferred pursuant to section 7 of the Shipping Act of 1984, 46 U.S.C. app. 1706, with regard to terminal services provided to a common carrier by water under a marine terminal services agreement which is not filed with the Commission pursuant to the exemption provided by § 535.310(b).

(c) The filing fee for such agreements is described in § 535.401(f).

[57 FR 4583, Feb. 6, 1992, as amended at 59 FR 63908, Dec. 12, 1994; 64 FR 11242, Mar. 8, 1999]

46 CFR Ch. IV (10–1–03 Edition)

§ 535.311 Marine terminal facilities agreement—exemption.

(a) *Marine terminal facilities agreement* means any agreement between or among two or more marine terminal operators, or between one or more marine terminal operators and one or more ocean common carriers, to the extent that the agreement involves ocean transportation in the foreign commerce of the United States, which conveys to any of the involved parties any rights to operate any marine terminal facility by means of lease, license, permit, assignment, land rental, or other similar arrangement for the use of marine terminal facilities or property.

(b) All marine terminal facilities agreements as defined in § 535.311(a) are exempt from the filing and waiting period requirements of sections 5 and 6 of the Shipping Act of 1984 and this part 535.

(c) Copies of any and all marine terminal facilities agreements currently in effect shall be provided, by parties to such agreements, to any requesting party for a reasonable copying and mailing fee.

(d) The filing fee for such agreements is described in § 535.401(f).

[58 FR 5631, Jan. 22, 1993, as amended at 59 FR 63908, Dec. 12, 1994]

Subpart D—Filing of Agreements

§ 535.401 General requirements.

(a) All agreements (including oral agreements reduced to writing in accordance with the Act) subject to this part and filed with the Commission for review and disposition pursuant to section 6 of the Act, shall be submitted during regular business hours to the Secretary, Federal Maritime Commission, Washington, D.C. 20573. Such filing shall consist of:

(1) A true copy and 7 additional copies of the filed agreement;

(2) Where required by this part, an original and five copies of the completed Information Form Referenced at subpart E of this part; and

(3) A letter of transmittal as described in paragraph (b) of this section.